



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1998

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR98-0547

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112796.

The City of Austin (the "city") received a request for "a full copy of police report OF 97 6104250." You have released certain information, however, you assert that the remaining requested information is excepted from disclosure pursuant to section 552.108. You state: "[t]he requested records have not resulted in a final conviction or a deferred adjudication." Section 552.108(a) of the Government Code provides, in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not stated that the

requested information pertains to an ongoing criminal investigation or prosecution nor have you explained how its release would otherwise interfere in some way with the detection, investigation, or prosecution of crime.

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in some final result other than a conviction or deferred adjudication. Although you did not fully explain this, information on the submitted documents clearly shows that the investigation did not result in conviction or deferred adjudication. Therefore, you may withhold the requested information from public disclosure under section 552.108(a)(2).

However, we note that basic information about an arrested person, an arrest, or a crime is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information, including the identification and description of the complainant, even if this information is not actually located on the front page of the offense report.¹ *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic information, section 552.108(a)(2) of the Government Code excepts the requested information from public disclosure. Although section 552.108 authorizes you to withhold the information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

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Ref.: ID# 112796

¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

Enclosures: Submitted documents

cc: Mr. Clark Patterson
600 West 26th Street, #G167
Austin, Texas 78705-4518
(w/o enclosures)